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Signature: /s/ Dale Tunnell		Position Title: Investigations Bureau Chief



INVESTIGATIONS BUREAU STANDARD OPERATIONS PROCEDURE GUIDE

APPLICABILITY

All divisions, facilities, and programs Department-owned and contracted, as specified in contract.

**INVESTIGATIONS BUREAU STANDARD OPERATIONS PROCEDURE GUIDE
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I. Introduction to Department of Corrections Investigations

A. Investigations at a Glance

The Department of Corrections (herein, the “Department”) Investigations Bureau provides the requirements for reporting and investigating misconduct involving Department employees and/or offenders in accordance with this operational procedure, Department policies, and local, state and federal law.

II. Responsibilities

A. Responsibilities of the Investigations Bureau chief

The Investigations Bureau chief determines whether an administrative or criminal investigation is required upon receipt of a written request from a division administrator. On a case-by-case basis, the Investigations Bureau chief may authorize an investigation when a verbal complaint is received.

The Bureau chief, or designee, is responsible for delegating all Department investigations and assigning investigators accordingly.

The Bureau chief may proceed with investigations and the delegation of investigations by coordinating with the Human Resources Bureau chief, Legal Services Bureau chief, and the administrator or designee requesting the investigation. The Bureau chief must document receipt of all staff misconduct and criminal conduct complaints, track, and record the progress of investigations through final disposition for inclusion in the annual report submitted to the Department director.

Upon receipt of criminal complaints involving Department property, employees, and offenders, the Bureau chief will notify the Law Enforcement Agency of Jurisdiction (LEAJ). Investigations Bureau chief may restrict access to any investigative material and pertinent resources to protect the integrity of the investigation and maintain confidentiality.

B. Responsibilities of Investigators

Investigators will conduct investigations in such a manner that information is kept confidential and disclosed only with the approval of the Investigations Bureau chief or designee.

Investigators that have reason to believe that individual(s) made false allegations, or uncover new allegation, will refer such issues to the Investigations Bureau chief.

Investigators must employ sound investigative techniques in accordance with state and federal law, Department rules, policies and procedures.

Investigators are required to complete basic investigation training, periodic updates as required by position, and specialized training for sexual assault or other specialty type investigations.

C. Responsibilities of Supervisors

Supervisors who receive a verbal complaint or who have knowledge regarding misconduct must submit the complaint in writing to the supervisor's division administrator or designee.

D. Responsibilities of the Administrator or Designee

The administrator or designee must review complaints received in writing from supervisors regarding suspected misconduct and either approve or disapprove the request for an official investigation. When approved, the administrator or designee must submit in writing, a request for investigation to the Investigations Bureau chief.

III. Expectations of Employees

Department employees are required, upon receipt of information or knowledge regarding misconduct, to report the entirety of information to the employee's supervisor in writing.

It is the responsibility of Department employees to maintain confidentiality and disclose investigation-related information only with the approval of the Investigations Bureau chief or designee.

Failure of a Department employee to cooperate with an investigation may result in disciplinary or corrective action in accordance with [*DOC Policy 1.3.2, Employee Performance and Conduct Guidelines*](#) and criminal sanctions in accordance with [*45-7-205, MCA*](#). Failure to cooperate may include, but is not limited to, providing erroneous and/or malicious information in a complaint or statement which the employee knows or suspects to be false.

IV. Rights of Employees Subject to Investigation

Department employees are guaranteed constitutional and administrative protections including receipt of the following warnings:

1. Investigators will advise all Department employees who are the subject of a criminal investigation that the investigation is criminal in nature.
2. Miranda Warnings will be provided by criminal investigators to all employees who are the subject of a criminal investigation to outline the individual's constitutional rights.
3. Investigators will provide Garrity Warnings to employees when an administrative investigation is proceeding and the potential for criminal charges are possible. Employees will be advised that answers will not be used against them in a criminal proceeding. If the employee refuses to answer or testify they will be subject to Department discipline up to, and including, termination.
4. Administrative Investigation Warnings are provided by investigators when an administrative investigation occurs, answers provided by the subject of the investigation

must be truthful and complete and may be used against the individual as provided by applicable law.

When an employee is interviewed by an investigator, an employee or union representative may be present during the interview process contingent that the representative does not have a conflict of interest, did not witness the alleged violation, and is not a member of the Investigations Bureau, Human Resources Bureau, or Legal Services Bureau. The representative must be able to attend a reasonably scheduled interview, may act only as an observer, and may be excused by the investigator if behavior of the representative becomes disruptive. Representatives may advise and confer with the individual only at the discretion of the investigator.

V. Conducting Investigations

A. Request for Investigation

Administrative investigations are generated by a formal written request for an investigation; criminal investigation may also be generated by receipt of an incident report, or other forms of communication.

B. Investigative Process

Upon receipt of a formal request for investigation, the Investigations Bureau chief will deny or approve the initiation of the investigatory process and appoint an investigator. Investigators from the Investigations Bureau, Human Resource Bureau, and individual divisions may be used to conduct Department investigations.

Once a formal request for investigation is received and approved by the Investigations Bureau chief, the investigation shall be completed within thirty (30) days. Two extensions of thirty (30) days each may be granted from the Investigations Bureau chief when warranted.

Investigative materials including, but not limited to incident reports, statements, and investigative reports will be stored in a designated investigative case file. Investigative case files must be submitted to the Investigations Bureau chief or designee.

Information obtained during either a criminal or an administrative investigation may be jointly shared and utilized; however, a self-incriminating statement may not be utilized in a criminal investigation against an individual that has been provided with a [Garrity Warning](#).

C. Conclusion of an Investigation

The Investigations Bureau chief will notify the administrator or designee upon the conclusion of an investigation. The administrator or designee will determine the disposition as follows:

1. Substantiated- indicating the event was investigated and determined to have occurred;
2. Unsubstantiated- evidence was insufficient to make a final determination that the event occurred;
3. Unfounded- event was determined not to have occurred;

4. Investigation ongoing- a final determination has not yet been made as to whether the event occurred.

In the event an administrator or designee is dissatisfied with the investigation report, the administrator or designee will consult with the Investigations Bureau chief.

VI. Definitions

Administrative Investigation Advisory – A formal advisement given during all administrative investigations; the details of the investigation are confidential except as stated and the individual must answer questions truthfully and completely.

Administrative Request for Investigation – Formal request for an investigation requested by a division administrator to the Investigations Bureau chief.

Criminal Conduct – Alleged violation of city, county, state, or federal law, including serious traffic violations, i.e.; hit and run, driving under the influence (DUI), reckless driving, or other violations by staff that could result in the imposition of a jail sentence and/or suspension or revocation of the driver's license.

Investigative Case File – Accumulated, official investigative report and materials in an organized, consolidated format.

Investigative Materials – Include, but are not limited to, incident reports, emails, statements, Department records, employee financial records, video, audio, and evidence.

Investigative Report – A detailed official account of all investigative efforts, which contains critical information from all involved parties.